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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,367	11/15/2001	Tokio Shibazaki	1217-011967	4689

7590

12/19/2002

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EXAMINER

GERRITY, STEPHEN FRANCIS

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 12/19/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,367

Applicant(s)

SHIBAZAKI ET AL.

Examiner

Stephen F. Gerrity

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: ____

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DETAILED ACTION

Information Disclosure Statement

1. Receipt is acknowledged of an Information Disclosure Statement, filed 19 March 2002, which has been placed of record in the file. An initialed, signed and dated copy of the form PTO-1449 is attached to this Office action.

Specification

2. The abstract of the disclosure is objected to because of the use of legal phraseology and idiomatic and grammatical errors. Correction is required. See MPEP § 608.01(b).

3. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

Claim Objections

4. Claim 1 is objected to because in line 5, the word "in" should perhaps be changed to --on--; and in line 6, the word "in" should perhaps be changed to --on--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim 2, lines 2-4, the subject matter "... an inching mode ... of the timing plate" is already recited in claim 1, thereby making the claim vague and indefinite for double inclusion of subject matter.

These and any other informalities should be corrected so that the claims may particularly point out and distinctly claim the subject matter which applicant regards as the invention, as required by 35 U.S.C. § 112, second paragraph.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1 and 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Tagomori (**US 4,912,912**) in view Meur (**US 4,903,456**).

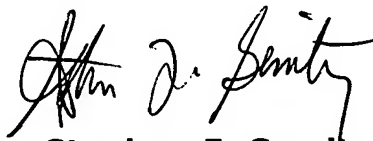
The Tagomori reference discloses a control for a banding packing machine including a cam shaft (4) with cams thereon (35, 102, 103), a timing plate (70) and having a slit (71 to 75) therein, a detecting means (76) for detecting when a slit reaches a predetermined position; and the rotation of the cam shaft (4) is stopped (see paragraph bridging cols. 5 and 6) which is considered by the examiner to meet the inching mode and operating mode language of claims 1 and 2. The Tagomori reference meets all of applicant's claimed subject matter but discloses a slit instead of a hole. The Meur reference discloses a wrapping machine including a cam shaft (50) which includes cams mounted thereon and which is used to control the operation of the wrapping machine through the use of a timing plate (60) including holes therethrough and a detecting means (62) -- see col. 8, lines 35-45). It would have been obvious to a person having ordinary skill in the art, at the time applicant's invention was made, to have modified the Tagomori controller in a banding packing machine by having replaced the slits (71-75) in the timing plate (70) with holes, as taught by Meur, as each are structural equivalents in the art for the same purposes, and one skilled in the art would have found the substitution to be routine.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Mitanihara et al., Near, Nagashima et al., Chak et al., Yuyama et al., British '040, French '480, Japanese '613, and Japanese '011 are cited to show strapping and wrapping machines including automatic control features.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Stephen Gerrity**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Rinaldi Rada**, may be contacted. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Group 3720** receptionist.



Stephen F. Gerrity
Primary Examiner
Art Unit 3721

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